

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

v.

Criminal No. 1:03cr3

MARY JOSEPHINE DANIEL,

Defendant.

ORDER/OPINION

On the 26th day of October, 2006, came the defendant, Mary Josephine Daniel, in person and by her counsel, Brian Kornbrath, and also came the United States by its Assistant United States Attorney, Zelda E. Wesley, pursuant to a Petition for Warrant or Summons for Offender Under Supervision filed in this case on October 4, 2006, and an Amended Petition filed on October 26, 2006, alleging Defendant violated conditions of her supervised release as follows:

1. Violation of Mandatory Condition No. 1: While on supervised release, the defendant shall not commit another federal, state or local crime. The defendant shall not illegally possess a controlled substance.
2. Violation of Standard Condition No. 7: The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any controlled substance or any paraphernalia related to any controlled substance, except as prescribed by a physician.

On September 22, 2006, the defendant furnished a urine specimen which was confirmed positive for marijuana by Scientific Testing Laboratories, Inc. on September 27, 2006.

3. Violation of Mandatory Condition No. 1: While on supervised release, the defendant shall not commit another federal, state or local crime. The defendant shall not illegally possess a controlled substance.

4. Violation of Standard Condition No. 7: The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any controlled substance or any paraphernalia related to any controlled substance, except as prescribed by a physician.

On October 23, 2006, the defendant furnished a urine specimen which was confirmed positive for marijuana by Scientific Testing Laboratories, Inc. On October 26, 2006.

Defendant's Probation Officer noted two previous Non-Compliance Summaries had been filed, one on March 7, 2006, and one on April 10, 2006, each alleging that Defendant had tested positive for marijuana. On each occasion the Court concurred with the Probation Officer's recommendation for no action.

Prior to the taking of evidence, Defendant waived the preliminary hearing and conceded probable cause existed to forward this revocation matter to Chief United States District Judge Irene M. Keeley for hearing and disposition.

The Court then explained the charges contained in the Petition and the effect of the proposed waiver to Defendant and inquired of her as to the voluntariness of her decision to waive the preliminary hearing. From the colloquy between the Court and the defendant, the Court concluded Defendant's decision to waive the preliminary hearing was knowingly and voluntarily made.

Upon consideration of all which, the Court finds there is probable cause to believe that the defendant violated the conditions of her supervised release as alleged in the Petition for Warrant or Summons for Offender Under Supervision filed October 4, 2006, and the amended petition filed October 26, 2006.

It is therefore **ORDERED** that the defendant be bound over for a full hearing before the Honorable Irene M. Keeley, Chief United States District Judge for the Northern District of West Virginia on the violations alleged in the Petition for Warrant or Summons for Offender Under Supervision filed October 4, 2006, and the Amended Petition filed on October 26, 2006.

It is further **ORDERED** that Defendant is released on bond pursuant to an Order Setting Conditions of Release entered this date.

The clerk of the court is directed to send a copy of this order to counsel of record.

DATED: October 26, 2006

/s *John S. Kaul*

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE